

REMARKS

In the foregoing Listing of Claims, applicants cancel claims 2-17 and add process claims 18-25 to the application. Applicants respectfully request reconsideration and allowance of the inventions defined in claims 1 and 18-25 for at least the following reasons.

The previous Listing of Claims included composition claims 1-10, 12, and 13, as well as method claims 11 and 14-17. The Office Action mailed April 17, 2009 rejected composition claims 1-10, 12 and 13 under 35 U.S.C. 102(b) as being anticipated by Japanese Patent No. 2002-053468 (JP '468) or European Patent No. 1208755 (EP '755). The Office Action also rejected composition claims 1-10 and 13 under 35 U.S.C. 102(a) as being anticipated by Smirnov (US 6,767,999). The composition claims were further rejected under 35 U.S.C. 103(a) as being unpatentable over Rosenbloom (WO 03/053346). With the exception of composition claim 1, the composition claims were canceled from the application in the foregoing amendments. Applicants respectfully submit that composition claim 1 is patently distinguishable from the teachings of JP '468, EP '755, and/or Smirnov for the reasons set forth in the Amendment filed on December 30, 2008, which reasons are incorporated herein by reference. In the event the Examiner finds any of new method claims 18-25 allowable, Applicants will cancel claim 1.

The teachings of JP '468, EP '755, and Smirnov were not used in the outstanding Office Action to reject any of the method claims. For such reasons associated therewith and for other reasons, Applicants respectfully submit that new method claims 18-25 are patently distinguishable from the teachings of JP '468, EP '755, and Smirnov within the meaning of 35 U.S.C. §102 or 35 U.S.C. §103.

The Office Action rejected claims 1-17 under 35 U.S.C. 103(a) as being unpatentable over Rosenbloom. Applicants respectfully submit that the inventions defined in claim 1 and new

method claims 18-25 are patently distinguishable from the teachings of Rosenbloom for at least the following reasons.

The Office Action stated that Rosenbloom discloses topical compositions and methods to treat adverse effects on the appearance of the skin with flavonoids (p. 5, ll. 9-20) such as anthocyanidins (p. 6, ll. 20) and compounds having anti-inflammatory activity (p. 9, ll. 26). The Office Action concluded that it would have been *prima facie* obvious to choose anthocyanidins among other flavonoids disclosed by Rosenbloom, because such a person would have expected anthocyanidins to have similar results when applied to the skin as other flavonoids. However, Applicants respectfully submit that this assessment of Rosenbloom is overly broad and therefore not correct.

Rosenbloom describes that a composition comprising a flavonoid having antioxidant properties and non-flavonoid antioxidant are used to treat adverse effects on the appearance of the skin such as redness, discoloration and dryness caused by peripheral neuropathies and/or peripheral vascular disease. Peripheral vascular disease is mainly caused by arterial sclerosis. Accordingly, Rosenbloom, at best, proposes administering an antioxidant, where the mechanism of the treatment is inhibition of aldose reductase activity. In other words, Rosenbloom proposes the use of an antioxidant composition for blocking acidic stress caused by excess free-radicals by action of an antioxidant.

In addition, the examples of Rosenbloom propose that administration of the composition for several days is required. Example 1 of Rosenbloom proposes an ointment, which must be applied to the skin for a few days with up to six applications per day (pp. 20-21). However, Example 1 of Rosenbloom shows or establishes no therapeutic effect (pp. 20-21). Example 2 of Rosenbloom also relates to an ointment, which is applied for 4 weeks at 3 times per day (pp. 22 -

- 23). Example 2 of Rosenbloom, at best, shows improvement in the appearance and texture of the skin. However, Example 2 of Rosenbloom establishes no concrete effects relative to the presently claimed invention.

On the contrary, Applicants' claimed method inhibits tyrosinase activity or ameliorates facial blood flow by administering a composition comprising anthocyan. Applicants' claimed method is mainly achieved by oral intake and systemic effect -- not local effect as proposed by Rosenbloom. Further, a single uptake or dosage is sufficient for the effect to occur, and there is no need for continuous intake dosages as required in Rosenbloom.

In addition, the mechanism of Applicants' claimed method is different from the antioxidant effect disclosed in Rosenbloom. Applicants' claimed method is not concerned with chronic vascular disorder such as arterial sclerosis, which is discussed in Rosenbloom. Applicants expect that the presently claimed method is based on the specific function of anthocyan that can lead to acute vasodilation. All flavonoids disclosed in Rosenbloom do not have such an effect. In addition, the data on page 14 of the Specification demonstrates that the presently claimed invention has the claimed inhibitory effect in an amount that is vastly superior to flavonoids, such as arbutin, kojic acid, l-cysteine, and glutathione.

For these reasons, Applicants respectfully submit that one of ordinary skill in the art reviewing the teachings of Rosenbloom would have no reason to believe that anthocyan would be useful for inhibiting tyrosinase activity or ameliorating facial blood flow. Namely, Rosenbloom is concerned with antioxidant activity -- not inhibiting tyrosinase activity or ameliorating facial blood flow by administering a composition comprising anthocyan, as presently claim. Not all antioxidants, either discussed in Rosenbloom or in general, are effective for inhibiting tyrosinase activity or ameliorating facial blood flow by administering a

composition comprising anthocyan. Accordingly, there is no reason for one of ordinary skill in the art to believe or expect, based on the teachings in Rosenbloom, that any particular flavonoid or compound, such as the presently claimed composition comprising anthocyan, would be useful for inhibiting tyrosinase activity or ameliorating facial blood flow by administering a composition comprising anthocyan.

Applicants clearly show the inhibiting tyrosinase activity of the claimed composition and crystalline D3G, D3R, and C3G. In addition, Applicants show and confirm the effect on ameliorating facial blood flow in the Specification. Still further, Applicants demonstrate and confirm facial blood flow increases 15 minutes after the intake of the claimed composition in the Specification, namely, the claimed composition has a quick effect. Rosenbloom never discloses or suggests inhibiting tyrosinase activity or ameliorating facial blood flow or that anthocyan, D3G, D3R, and C3G has any such effect in connection therewith.

In more detail, Rosenbloom never discloses the claimed the claimed composition comprising anthocyan of the present application or D3G, D3R and C3G, and Rosenbloom never discloses or suggests the inhibiting tyrosinase activity and the effect on ameliorating facial blood flow of the anthocyan recited in claims 18-25 of the present application. Furthermore, Rosenbloom provides no reason for one of ordinary skill in the art to select the composition of the present invention including anthocyan or D3G, D3R and C3G among huge number of flavonoids in connection with a method for inhibiting tyrosinase activity or ameliorating facial blood flow, as presently claimed.

At least for the foregoing reasons, Applicants respectfully submit that the presently claimed invention is patently distinguishable from Rosenbloom. Therefore, Applicants

respectfully request that the Examiner reconsider and withdraw any potential §103 rejection of method claims 18-25 over the teachings of Rosenbloom.

Applicants believe that the foregoing is a complete and proper response to the Office Action mailed April 17, 2009. While it is believed that all pending claims in this application are in condition for allowance, if the Examiner has any comments or questions, Applicants invite the Examiner to telephone the undersigned to resolve any outstanding issues at the below listed number.

In the event this paper or the RCE filed on even date herewith is not timely filed, Applicants hereby petition for an appropriate extension of time. The Commissioner is hereby authorized to charge the fee therefor, as well as any other fees which become due, to our Deposit Account No. 50-1147.

Respectfully submitted,

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